



CITY OF SUNNYVALE REPORT Planning Commission

January 9, 2006

SUBJECT: **2005-1157 – Classic Communities** [Applicant] **Junction Oaks Properties** [Owner]: Application for related proposals on a 1.2-acre site located at **1035 North Fair Oaks Avenue** (near Weddell Dr) in an M-S/ITR/R-3/PD (Industrial & Service/Industrial to Residential/Medium-Density Residential/Planned Development) Zoning District.

Motion **Special Development Permit** to allow construction of 30 condominium flats

Motion **Tentative Map** to create 30 condominium units.

REPORT IN BRIEF

Existing Site Conditions One-story industrial buildings

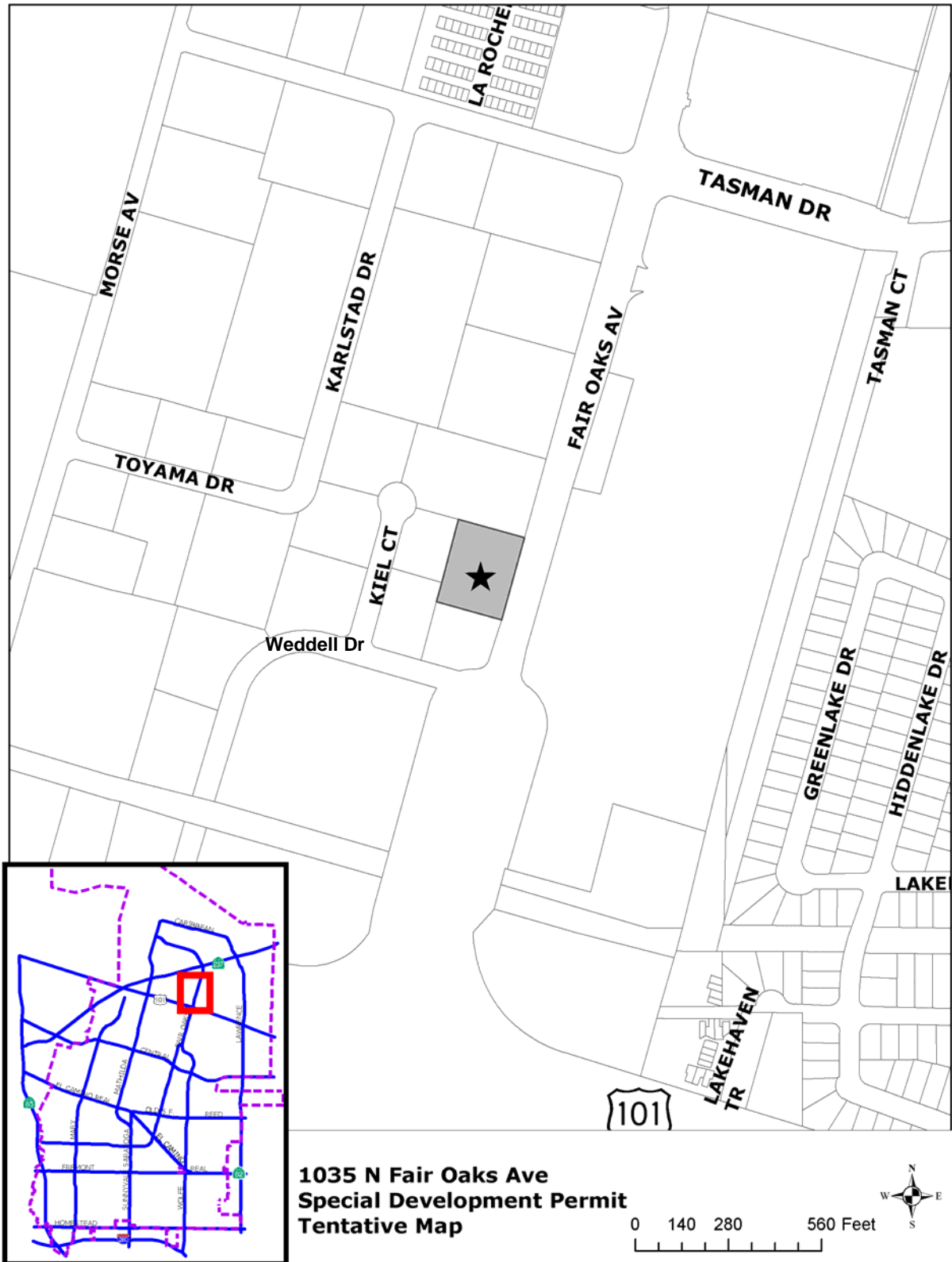
Surrounding Land Uses

North	Future Danbury Place Phase II (36 townhomes)
South	Lion and Compass Restaurant
East	Mobile Home Park (across Fair Oaks)
West	General Industrial Building

Issues Design Review: Massing; Materials; Site Layout

Environmental Status A Mitigated Negative Declaration has been prepared in compliance with California Environmental Quality Act provisions and City Guidelines.

Staff Recommendation Approve with Conditions



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Industrial to Residential Medium to High Density	Same	---
Zoning District	M-S/ITR/R3/PD	Same	---
Lot Size (s.f.)	1.184 ac 51,400	1.156 ac 50,355	8,000 min.
Gross Floor Area (s.f.)	19,145	46,730	No max.
Lot Coverage (%)	37.2%	32.7%	40 % max.
Floor Area Ratio (FAR)	37.2%	97%	No max.
No. of Units	0	30	32 max.
Density (units/acre)	n/a	25.9	24 max. plus 15% bonus
Meets 75% min?	n/a	106	75 % min.
Bedrooms/Unit (living area s.f.)	n/a	All 2 bedrooms with detached single car garages Plan 1x: 1,021 Plan 1: 1,017 Plan 2: 1,088	---
No. of Buildings On-Site	1	3	---
Distance Between Buildings (ft.)	n/a	26	26' min. for three story
★ Building Height (ft.)	n/a	43' 6" from grade 45' from curb	30' max.
★ No. of Stories	1	3	2 max.
Setbacks (facing prop.)			
★ • Front	26	15 to façade, 12 to entries	15 min. Avg. 20
★ • Left Side	47	8	6' min. first/ 12' third story
• Right Side	44	15	9' min./15' third story
• Rear	65	50	20' min.

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
Landscaping (sq. ft.)			
• Total Landscaping	5,000	16,153	12,750 min.
★ • Total Usable Open Space	n/a	10,900	12,000 min.
• Landscaping / Unit	n/a	538	425 min.
• Usable Open Space/Unit	n/a	363	400 min.
• Parking Lot Shading	20%	40%	50% within 15 years
★ • Frontage Width (ft.)	25	12	15 ft. min.
• Landscaper Buffer (ft.)	n/a	None	10 ft. min.
Parking			
• Total No. of Spaces	80	61	60 min.
• No. of Standards	80	19	19 min.
• No. of Compacts / % of total	none	10 (32%) <i>(note one space of ten removed from plan)</i>	35% unassigned max.
• No. of Accessible	4	2	2 min.
• No. of Covered Spaces	n/a	30	30 min.
• Driveway Aisle Width (ft.)	26'	24'	24' min.
• Bicycle Parking	n/a	Storage within garage, additional racks in common area	1/15 unit min. Class 1

★ Starred items indicate deviations from Sunnyvale Municipal Code requirements.

ANALYSIS

Description of Proposed Project

The proposed project consists of 30 individual ownership-housing units known as "flats." Each unit is configured as a two bedroom single-level home accessed via an internal corridor. Each unit also has a single-car garage that is accessed via an internal corridor as well. The development consists of three

main buildings of 10 units each. The applicant has utilized a municipal code provision for a density bonus to achieve a density of approximately 26 units per acre where 24 is otherwise the maximum.

The units are configured with two units on the ground floor and four units on the second and third floors. The building is accessed via one of three secure exterior entrances to each main building or from the individual garage units. Vertical circulation is provided by one of three internal stairwells. The project also has surface parking spaces and open space within the common area of the development.

Background

The site is part of Futures Area 7 of the 1993 Futures Study and is also part of the *Fair Oaks Tasman Area Pedestrian and Bicycle Circulation Plan* adopted in 2004. No other planning actions are relevant to the site.

Environmental Review

A Mitigated Negative Declaration has been prepared in compliance with the California Environmental Quality Act provisions and City Guidelines. An initial study has determined that the proposed project, with mitigation, would not create any significant environmental impacts (see Attachment C, Initial Study). The required mitigation addresses potential noise impacts generated from road noise. The mitigation includes mechanical ventilation requirements and a variety of Sound Transmission Class (STC) rated windows for different areas of the project.

Special Development Permit

Site Layout:

The site is developed with three main buildings, each building identical in layout with 10 housing units and 10 single-car garages within each building. Three similar floor plans are provided for the two bedroom flats. The ground floor consists of individual single car garages with automatic rollup doors and a door connecting the garage to an internal corridor and on the opposite are two of the housing units. The upper floors have four units per floor with the rear units including a four-foot wide balcony and front units without balconies. Access to the ground floor corridor of the buildings for visitors is through either a secure keypad entrance at the front of the building or via either ends of the buildings.

The design orients the southeast building towards the street with walk up entrances to the units and main building. The north building has a side entrance oriented to Fair Oaks Avenue, as well as a main entrance towards the

publicly dedicated pedestrian path. The rear building is internally located and fronts onto a private walk and open space.

The project includes multiple points of pedestrian circulation connecting to Fair Oaks Avenue. The paths connect throughout the site as well as to the many points of entrance to each building. The site has a single point of vehicular access from Fair Oaks Avenue which circulates to the garages and parking lots. As you access the site, surface parking is provided along one side of the main driveway as you circulate to a large parking lot in the rear of the site. Centralized trash enclosures are also included along the main driveway entrance. A large open space rectangle of approximately 5,000 square feet is provided for at the rear of the site. A clubhouse is not required as the project does not meet the minimum 50-unit threshold.

The layout of the design includes deviations related to site layout for a front yard setback of a minimum of 12 feet to the entryway overhangs and 15 feet to the main façade and an upper story setback of 8 feet along the south property line where 12 feet is the minimum. Along with front yard setback distance deviation a deviation to frontage landscape strip width corresponds to the same request from 12-15 feet in width. Staff supports the proposed front yard deviations due to guidelines from the *Fair Oaks Tasman Area Pedestrian and Bicycle Circulation Plan* supporting urban design techniques and pedestrian friendly design features. The side yard setback deviation interface is currently with the adjacent restaurant and mature landscaping also provides a buffer and screening for the current use as well as any future residential redevelopment. Staff supports the side yard deviation due to the configuration maximizing usable areas as well as providing for some architectural detail on the south façades of the two buildings.

Stormwater Management: The project includes a post construction stormwater management plan. Due to soil composition the primary treatment mechanisms are in-ground mechanical devices and minor amounts of landscape infiltration.

The following Guidelines were considered in analysis of the project site design.

Design Policy or Guideline (Site Layout)	Comments
<u>Citywide Design Guidelines</u> <i>Site Design B1. Locate site components such as structures, parking, driveways, walkways, landscaping and open spaces to maximize visual appeal and functional efficiency.</i>	The design maximizes the density of the site while providing a street presence to the design and a large usable open space in the rear of the site. The project is interconnected with private walks and connects to the public pedestrian path.

Design Policy or Guideline (Site Layout)	Comments
<u>Fair Oaks/Tasman Plan Guidelines</u> <i>BD2 Try to maintain a well-defined street edge. BD 4 Provide direct entrances to street-level residential units to support an intimate streetscape.</i>	Walk up entries are provided along Fair Oaks Avenue in effort to provide interest and pedestrian friendliness to the vehicular oriented Fair Oaks Avenue.
<u>Fair Oaks/Tasman Plan Guidelines</u> <i>SL 1 Private streets and driveways within development shall be designed for pedestrian use with sidewalks on a least one side.</i>	Multiple points of pedestrian access are included to Fair Oaks Avenue as well as to the Pedestrian Path.

Architecture:

The design for the main buildings takes on Craftsman character of features for the details and finishing. The design for each main building is the same with slight variations of color used to coordinate and distinguish the buildings. The buildings are highlighted by a variable roof height with dormers to break up the mass of the buildings, proportional sizing of vertical elements (although not symmetrical) on the front façade for relief, covered entries for relief, multi-paned windows with trim and shutters, and a variety of exterior materials. The current design has a base of a brick veneer on the majority of the front and side façades, a middle treatment of offset shingle siding, and then horizontal Hardi-plank siding for the top treatment. The roof material consists of a brown toned composition shingle roof material.

The main buildings themselves are just over 110 feet in length, similar to the linear width of five attached townhome units. The depth of the building is approximately 60 feet in width. The height of the buildings varies from 40' to 43' 6" in height measured from grade with approximately 1.5 additional feet of site grading for a maximum height of 45 feet.

Deviations related to architecture include an overall height of 45 feet and three stories where 30 feet and two stories is permitted. Staff supports the deviation due to the compatibility of height to surrounding projects and support for the variety of housing type and use of bonus densities.

Staff finds the proposed pattern of building location and orientation appropriate for maximizing the site layout while complimenting the development pattern to the north. However, staff's primary concern with the project relates to the visual relief and façade articulation along Fair Oaks Avenue. The building design has the potential to be bulky in appearance. The applicant has modified the plans to vary the width of pop-outs and the rooflines on the buildings as well as mixing the exterior treatments.

Staff has included two specific design conditions requiring additional attention to the building facade. The first requires additional design of the covered entries to include a shed roof overhang. This change would provide better proportion and make them more distinctive (COA 5A3). The side elevation of the building needs modification to enhance the vertical articulation (COA 5A4).

Staff also prefers the rendered elevation colors with the light tan color over the submitted color boards and will continue to work with the applicant on suitable colors that have a brightness to the hue that contrast the dark trims.

The remaining area of concern for the design is the appearance of the rear of the buildings, specifically the north building which is easily viewable from Fair Oaks. The pattern of repetitious garage doors and modest relief with the small balconies requires additional attention. The applicant has attempted to address the design with the roof variation and use of the brick veneer all along the base. Staff has included a condition of approval for a rendered perspective of this portion of the building to continue development of the plan to provide for visual relief and an appropriate pattern of materials.

The following Guidelines were considered in the analysis of the project architecture.

"Name of Guidelines"	Comments
<u>Citywide Design Guidelines</u> <i>Bldg. Design B1. Break up large buildings into groups of smaller segments whenever possible to appear smaller in mass and bulk.</i>	The building façade has popouts and covered entries to create visual relief. The variation of roof overhang and eaves is an additional technique mitigating the height and bulk of the building. On the rear side of the building, the repetitious garage doors do not provide enough relief to break down the visual mass of the building.
<i>Bldg. Design C1.2.2 Encourage development of diversified building forms and intensities.</i>	The architectural style is for individual single level units known as flats. This contrasts with the prevalent development pattern of multi-story individual townhome style units in the area. The design with internal corridors and single-car garages provides a change of unit type and creates entry-level market rate housing units.
<i>Bldg. Design C3. Develop a comprehensive architectural theme for multi-building complexes. Unify various site components through use of similar design, material and color.</i>	The applicant has used a grouping of buildings using analogous color schemes to create a harmonious site development of 30 units.. The project includes a cohesive design scheme that uses modest color changes while using the same materials and layout.

"Name of Guidelines"	Comments
<i>Materials and Colors F4. Choose high quality materials and paint to prevent degradation and for ease of maintenance.</i>	The project includes fiber cement siding providing for the highest level of warranty as well as elements of interest with shingle and horizontal siding combined with brick veneer and wood trim and shutters. The roof material is composition shingle. Design guidelines require a 50-year warranty material with dimensional relief for a textured appearance.
<i>Materials and Colors F5. Use wrought iron, cast iron, or high quality wood for decorative features and trims.</i>	

Landscaping:

Tree Preservation: The subject site has a total of 23 trees around the site with 9 trees considered protected. There are an additional 11 off-site trees to the west and south that are considered protected trees. Protected trees are those that measure 38 inches or greater in circumference when measured at four feet from the ground. The on-site protected trees are located along the south boundary line (interface with the Lion and Compass Restaurant). Although not protected tree status, the olive trees along the Fair Oaks frontage are noted as being in good health and worthy of retention, however the project has not retained them at this time. New street trees would be planted in their place.

A substantial number of protected trees are located along the south boundary. The applicant's arborist rates these trees as fair condition due to historic topping of the trees and notes that for maintenance purposes the tree could be removed even if they were not in conflict with the development plan. At this time the applicant has indicated the ability to retain most of the significant trees and will retain the majority of the fair condition south boundary trees to maintain their buffer with the Lion and Compass. Staff will continue to work with the applicant to maintain existing trees along the south property line that are appropriately located and in fair to good condition. The protected trees on adjacent sites will not be impacted by the proposed development.

Open Space: The majority of the provided open space in the development is in the rear of the site in the form of a large open square of approximately 5,000 square feet. The design is relatively open for usability with a path running in front of the building to provide access to the units and along the fence line enclosing the space. A BBQ patio area is located at the north end of the square. In an effort to further enhance the usability of the open square staff has included a recommended condition to eliminate the path along the west boundary and keep only the path providing access to the homes.

The overall square footage of open space is roughly 10,900 where a minimum of 12,000 is required for an average of 363 square feet per unit where 400 square feet per unit is the minimum. Staff does not support the deviation to open space as proposed. The most reasonable alternative to design is to modify

the balconies (a total of 12 balconies are in the project) to meet the minimum standards. The balconies would need to be widened from four feet to seven feet to meet the standards. Staff has included a condition for the applicant to meet the usable open space standard of a minimum of 400 square feet per unit through either altering building footprints to achieve 12 foot wide areas meeting the definition of usable open space or by widening balconies.

The following Guidelines were considered in analysis of the project landscaping.

"Name of Guidelines"	Comments
<u>Citywide Design Guidelines</u> <i>Landscaping A4 Properly landscape all areas not covered by structures, driveways and parking.</i>	The site significantly exceeds minimum landscape standards. Tree shading is required of the parking lot areas, the applicant at this time is below the 50% shading requirement for parking lots. A deviation is not proposed and the applicant will continue to work on placement of trees to meet this standard.
<i>A2 Preserve and incorporate existing natural features, particularly trees, on a site into the landscape design of projects.</i>	Most on-site-protected trees can be retained, however due to health some may be removed during construction. No protected off-site trees will be impacted.
<i>Site Design B1. Locate site components such as structures, parking, driveways, walkways, landscaping and open spaces to maximize visual appeal and functional efficiency.</i>	The design is appropriate with a lawn between the north building and public pedestrian path. Multiple walkways connect the site to the perimeter and provide good internal circulation. The open space square provides bona fide active usable area on site.

Parking/Circulation: The project provides one individual garage space per unit with an additional 32 parking spaces unassigned in surface parking lots. The parking is well located to serve all residents and includes pathways connecting the different areas in the site. Requirements to revise the design to lengthen proposed compact spaces to city minimum dimensions will likely reduce the proposed 32 surface spaces to 31 spaces. Such a change will still exceed the minimum parking requirement of 30 surface spaces. Staff is recommending the placement of a bike rack for guests near the trash enclosure area of the site as well. Consistent with other projects with a high percentage of unassigned spaces, staff is also recommending that 25% of the unassigned spaces be marked for “guest use only.”

The following Guidelines were considered in analysis of the project parking and circulation.

"Name of Guidelines"	Comments
<u>Fair Oaks/Tasman Plan Guidelines</u> <i>SL 3 Discourage the creation of isolated/walled complexes</i>	The buildings are oriented to the street and pedestrian path and parking is situated internally. Multiple points of pedestrian access are provided to the site.

Compliance with Development Standards/Guidelines: The applicant has requested deviations to the side yard upper story setback, front yard setback, frontage strip width, height, number of stories, and usable open space. Staff supports the deviations as necessary for the development of the project with the exception of the open space deviation. Staff supports the proposed front yard deviations due to guidelines from the *Fair Oaks Tasman Area Pedestrian and Bicycle Circulation Plan* supporting urban design techniques and pedestrian friendly design features. The side yard setback deviation interface is currently with the adjacent restaurant and mature landscaping also provides a buffer and screening for the current use as well as any future residential redevelopment. Staff supports the side yard deviation due to the configuration maximizing usable areas as well as providing for some architectural detail on the south façades of the two buildings.

Staff has included a condition requiring compliance with the minimum of 400 square feet per unit standard. The applicant is also in the process of rectifying the parking dimensions and tree shading requirements without the need for deviations.

Fair Oaks Tasman Area Pedestrian and Bicycle Circulation Plan: The applicant is in compliance with the Tasman Fair Oaks Pedestrian and Bicycle Guidelines for development pattern and improvements. The sites are identified as required to contribute to "sense of place" improvements, and the pedestrian bicycle path. The Transportation Division of Public Works is in the process of working through design enhancements for the neighborhood with a consultant. This work is likely to be done by early summer. The design work will include defining the physical "sense of place" improvement requirements. At this time costs have not been established and staff has estimated previously up to \$1,000 per unit may be appropriate contributions toward these future enhancements. Staff has included a condition requiring the applicant to implement that sense of place improvements if the design work has been completed prior to submittal for building permits, or if the work is not done to provide an in lieu cash payment of \$1,000 per unit.

TDM for Residential Development: The applicant is also required to provide transit info kiosks on the site due to proximity to the light rail station. Staff is recommending, at a minimum, placement of one kiosk.

Expected Impact on the Surroundings: The area surrounding this site is designated as ITR (Industrial to Residential) with a mobile home park to the east across Fair Oaks Avenue. As an area transitioning to residential the current interim development pattern is disjointed throughout the area due to parcelization and individual property owner's discretion on pursuing residential development or maintaining an industrial use. This pattern creates potential conflicts for ongoing industrial uses with new residents. In this case there is an existing restaurant to the south that will now have neighbors on two sides. The applicant has been in contact with the operator and has worked to maintain the existing landscape buffer. However, staff has required a deed declaration within the CC&R disclosing industrial uses are in the general vicinity of the site as has been typical for all projects in this area.

The impacts to the project residents are the potential for vehicle traffic or truck traffic, potential noise, and other impacts from business operations as compared to a homogenous residential neighborhood. Through the Initial Study for CEQA review of this project and the Futures EIR of the early 1990s, no hazardous material problems were identified on the subject site or in relation to the adjacent industrial operations. This transition is consistent with the intent of the Futures study and specifically the existing ITR zoning.

An additional impact on the surrounding neighborhood relates to availability of recreational facilities. A site 1/4 mile to the southwest of the subject sites is owned by the City and planned to be a future 5-acre park. However, the park is currently listed as an unfunded capital project and does not have a targeted improvement date. Including the proposed project, existing residents, and the projects under construction in the area, the need for the park is increasing and City shall monitor the situation for appropriate action in the future to provide needed park services for the neighborhood planning area. At this time the neighborhood residents have access to the John W. Christian Greenway and Orchard Gardens Park, with connecting access to Lakewood Park to the east of the area. The proposed project is subject to park in-lieu fees to support the development or acquisition of additional park facilities.

Tentative Map

Description of Tentative Map: The applicant's lotting pattern consists of only one lot with the creation of condominium units for the flats to allow for ownership opportunities. The applicant has provided for required dedications along Fair Oaks Avenue to provide for street frontage improvements as well as the two-foot dedication along the north property line for completion of the dedicated pedestrian path. The project is required to provide for the bicycle and pedestrian path improvements and street frontage improvements, including sidewalks, luminaries and street trees in conformance with the *Tasman and Fair Oaks Area Pedestrian and Bicycle Plan*.

Fiscal Impact

The project will contribute park in-lieu fees to the City in the amount of \$7,350.75 per unit for a total of \$220,522.50. This fee will be collected prior to the time of final map approval. The project will have a slight net increase in traffic per the Transportation Strategic Program and will have an estimated fee of \$7,921.94 for 30 units. Payment of traffic fees is due prior to issuance of building permits for construction of individual units.

No fiscal impacts other than normal fees and taxes are expected.

Public Contact

Planning Commission Study Session: A study session was held on December 12, 2005 to become acquainted with the application. The general comments supported the new housing type for the area with most concerns related to colors and presence to the street and security. The applicant has indicated security issues will be addressed at the public hearing.

Notice of Negative Declaration and Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none"> Published in the <i>Sun</i> newspaper Posted on the site 265 notices mailed to the property owners and residents within 300 ft. of the project site 	<ul style="list-style-type: none"> Posted on the City of Sunnyvale's Website Provided at the Reference Section of the City of Sunnyvale's Public Library 	<ul style="list-style-type: none"> Posted on the City's official notice bulletin board City of Sunnyvale's Website Recorded for SunDial

Conclusion

Findings and General Plan Goals: Staff was able to make the required Findings based on the justifications for the Permit . Findings and General Plan Goals are located in Attachment A.

Conditions of Approval: Conditions of Approval are located in Attachment B.

Alternatives

1. Adopt the Mitigated Negative Declaration and approve the Special Development Permit and Tentative Map with attached conditions.
2. Adopt the Mitigated Negative Declaration and approve the Special Development Permit and Tentative Map with modified conditions.
3. Adopt the Mitigated Negative Declaration and deny the Special Development Permit and Tentative Map.
4. Do not adopt the Mitigated Negative Declaration and direct staff as to where additional environmental analysis is required.

Recommendation

Recommend Alternative 1

Prepared by:

Kelly Diekmann
Project Planner

Reviewed by:

Gerri Caruso
Principal Planner

Reviewed by:

Trudi Ryan
Planning Officer

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Mitigated Negative Declaration
- D. Site and Architectural Plans
- E. Colored Elevation

Recommended Findings - Special Development Permit

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale.

Land Use and Transportation Element

Action Statement N1.4.2 Site higher density residential development in areas to provide transitions between dissimilar neighborhoods and where impacts on adjacent land uses and transportation system are minimal.

Action Statement R.1.7.2 Support regional efforts which promote higher densities near major transit and travel facilities, without increasing the overall density of land usage.

Policy C2.2 Encourage the development of ownership housing to maintain a majority of housing in the City for ownership choice.

Housing and Community Revitalization Sub-Element

Policy C.1 Continue efforts to balance the need for additional housing with other community values, such as preserving the character of established neighborhoods, high quality design, and promoting a sense of identity in each neighborhood.

Goal D Maintain diversity in tenure, type, size and location of housing to permit a range of individual choices for all current residents and those expected to become city residents.

The proposed project provides 30 additional housing units including 4 BMR units and eases the City's jobs/housing imbalance with the additional housing and replacement of employment producing land uses. The design of "flats" provides for entry-level housing and diversity of housing stock while providing compatible transition of use with development in the area and a high quality living environment for its future residents. The project site is part of the Futures 7 Industrial to Residential conversion area which intends for the proposed type of residential use.

2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties.

The proposed project will complement planned residential development to the west and north and provide an adequate buffer with the restaurant to the south. A condition of approval addresses a deed declaration to provide awareness of the areas transition from industrial to residential. The design of the project addresses compatibility and screening of the abutting uses during the interim prior to their redevelopment to housing.

Recommended Findings - Tentative Map

In order to approve the Tentative Map, the proposed subdivision must be consistent with the general plan. **Staff finds that the Tentative Map is in conformance with the General Plan.** However, if any of the following findings can be made, the Tentative Map shall be denied. Staff was not able to make any of the following findings and recommends approval of the Tentative Map.

1. That the subdivision is not consistent with the General Plan.
2. That the design or improvement of the proposed subdivision is not consistent with the General Plan.
3. That the site is not physically suitable for the proposed type of development.
4. That the site is not physically suitable for the proposed density of development.
5. That the design of the subdivision or proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.
8. That the map fails to meet or perform one or more requirements or conditions imposed by the "Subdivision Map Act" or by the Municipal Code

Recommended Conditions of Approval - Special Development Permit

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. GENERAL CONDITIONS

- A. Execute a Special Development Permit document prior to issuance of the building permit.
- B. The Special Development Permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is approved prior to the expiration date.
- C. The Conditions of Approval shall be reproduced on the cover of the plans submitted for building permits. Building Permit plans shall be accompanied by an annotated set of conditions of approval indicating how the project complies with each condition.
- D. This Special Development Permit is valid only in accordance with the approved plans. Any major use, site or architectural modifications shall be treated as an amendment to the original approval, and shall be subject to approval at a public hearing before the Planning Commission. Minor modifications shall be approved by the Director of Community Development.
- E. Specific deviations allowed with this Special Development Permit are as follows, no other deviations are expressly permitted:
 - a. Maximum height of 3 stories and 45 feet as measured from top of curb.
 - b. Minimum Front Yard Setback and frontage strip width of 12 feet along Fair Oaks.
 - c. Side yard setback of 8 feet
- F. An Impervious Surface Calculation worksheet is required to be completed and submitted to the California Regional Water Quality Control Board prior to issuance of a Building Permit.
- G. A third party certified stormwater plan shall be submitted at the time of submittal for building permits. The plan is subject to approval by the Director of Community Development. The building permit improvement, landscape, and grading plans shall include a statement of no conflict from the certified stormwater engineer in accordance with an approved stormwater management plan.

2. ENVIRONMENTAL MITIGATION MEASURES

- A. In addition to complying with applicable City Codes, Ordinances, and Resolutions, the following mitigation measures are incorporated into the project to minimize the identified potential environmental impacts:

MITIGATION MEASURE #1: Mechanical ventilation systems are required for all units in the project to allow for each unit to be able to achieve the 45 db minimum interior noise level with closed windows. The ventilation system details and location are to be included on plans submitted for building permit issuance.

MITIGATION MEASURE #2: Include STC rated windows as indicated in the mitigated negative declaration. The window types shall be noted on the building permit plans for window schedules and on a site plan sheet showing areas requiring rated windows.

3. BMR (BELOW MARKET RATE UNITS)

- A. Comply with Below Market Rate Housing (BMR) requirements as noted in SMC 19.66.
- B. The project will provide 12.5% (3) Below Market Rate ownership dwelling units in compliance with SMC 19.66.
- C. The developer shall submit a site plan to the Housing Officer for review. The plan will include a description of the number, type, size and location of each unit on the site. The Housing Officer will then determine the specific units to be obligated as Below Market Rate (BMR) unit(s). (BMR Administrative Guidelines)
- D. Prior to issuance of a building permit, the developer shall execute a Development Agreement with the City to establish the units. The sale price of the BMR units is established at the time of the execution of the Development Agreement. (BMR Administrative Guidelines)
- E. All BMR dwelling units shall be constructed concurrently with non-BMR units, and shall be dispersed throughout the property and shall reflect the range in numbers of bedrooms provided in the total project and shall not be distinguished by exterior design, construction or materials. (SMC 19.66.020(c))
- F. Sixty days (60) days prior to the estimated occupancy date, the developer shall notify the Housing Division of the BMR units to be available. (BMR Administrative Guidelines)
- G. BMR Ownership Program - Developer and Buyer to execute "Addendum to Purchase Offer" prior to Occupancy Permit and provide copy to City. (BMR Administrative Guidelines)
- H. Ownership Units - Prior to Close of Escrow, a Deed of Trust between the City and the Buyer of the BMR unit shall be recorded to establish resale and occupancy restrictions for a 30-year period.

- I. The original sale price of BMR dwelling units shall comply with sales prices established by the City, which is revised annually. (SMC 19.66.040 (c))
- J. Below Market Rate dwelling units shall be offered for sale only to persons qualified under the terms described in SMC 19.66.040 and 19.66.050 and described more fully in the Administrative Guidelines. (BMR Rental Units / BMR Ownership Program)
- K. Resale of BMR dwelling units shall comply with procedures set forth in SMC 19.66.060.
- L. In the event of any material breach of the Below Market Rate Program requirements and conditions, the City may institute appropriate legal actions or proceedings necessary to ensure compliance. (SMC 19.66.140)
- M. In the event that any of the Below Market Rate dwelling units or a portion thereof is destroyed by fire or other cause, all insurance proceeds therefrom shall be used to rebuild such units. Grantee hereby covenants to cause the City of Sunnyvale to be named additional insured party to all fire and casualty insurance policies pertaining to said assisted units. (BMR Administrative Guidelines)

4. CC&R's (CONDITIONS, COVENANTS AND RESTRICTIONS)

- A. Any proposed deeds, covenants, restrictions and by-laws relating to the subdivision are subject to review and approval by the Director of Community Development and the City Attorney.
- B. Prior to approval of the final map the applicant shall prepare a deed declaration disclosing potential impacts from the adjoining industrial uses. The statement shall identify the uses are permitted to operate in perpetuity and associated impacts may include noise, truck traffic, night lighting, etc. The deed restriction language shall be submitted to the Director of Community Development and City Attorney for review and approval.
- C. The developer/Owner shall create a Homeowner's Association that comports with the state law requirements for Common Interest Developments. Covenants, conditions and restrictions (CC&Rs) relating to the development are subject to approval by the City Attorney and Director of Community Development prior to approval of the Final Map. In addition to requirements as may be specified elsewhere, the CC&R's shall include the following provisions:
- D. Membership in and support of an association controlling and maintaining all common facilities shall be mandatory for all property owners within the development.

- E. The homeowners association shall obtain approval from the Director of Community Development prior to any modification of the CC&R's pertaining to or specifying the City.
- F. The developer shall maintain all utilities and landscaping for a period of three years following installation of such improvements or until the improvements are transferred to a homeowners association, following sale of at least 75% of the units in each individual phase, whichever comes first.
- G. The Conditions of Approval of this permit 2005-1157 Permit shall be included in the CC&Rs.
- H. The CC&Rs shall contain the following language:
 - 1. "Right to Remedy Failure to Maintain Common Area. In the event that there is a failure to maintain the Common Area so that owners, lessees, and their guests suffer, or will suffer, substantial diminution in the enjoyment, use, or property value of their Project, thereby impairing the health, safety and welfare of the residents in the Project, the City, by and through its duly authorized officers and employees, will have the right to enter upon the subject Property, and to commence and complete such work as is necessary to maintain said Common Area. The City will enter and repair only if, after giving the Association and Owners written notice of the failure to maintain the Common Area, they do not commence correction of such conditions in no more than thirty (30) days from the giving of the notice and proceed diligently to completion. All expenses incurred by the City shall be paid within thirty (30) days of written demand. Upon a failure to pay within said thirty (30) days, the City will have the right to impose a lien for the proportionate share of such costs against each Lot in the Project.
 - 2. It is understood that by the provisions hereof, the City is not required to take any affirmative action, and any action undertaken by the City will be that which, in its sole discretion, it deems reasonable to protect the public health, safety and general welfare, and to enforce it and the regulations and ordinances and other laws.
 - 3. It is understood that action or inaction by the City, under the provisions hereof, will not constitute a waiver or relinquishment of any of its rights to seek redress for the violation of any of the provisions of these restrictions or any of the rules, regulations and ordinances of the City, or of other laws by way of a suit in law or equity in a court of competent jurisdiction or by other action.
 - 4. It is further understood that the remedies available to the City by the provision of this section or by reason of any other provisions of law will be cumulative and not exclusive of the maintenance of any other remedy. In this connection, it is understood and agreed that the failure to maintain the Common Area will be deemed to be a public nuisance and

the City will have the right to abate said condition, assess the costs thereof, and cause the collection of said assessments to be made on the tax roll in the manner provided by appropriate provisions of the Sunnyvale Municipal Code or any other applicable law.

5. No Waiver. No failure of the City of Sunnyvale to enforce any of the covenants or restrictions contained herein will in any event render them ineffective.
6. Third-Party Beneficiary. The rights of the City of Sunnyvale pursuant to this Article will be the rights of an intended third party beneficiary of a contract, as provided in Section 1559 of the California Civil Code, except that there will be no right of Declarant, the Association, or any Owner(s) to rescind the contract involved so as to defeat such rights of the City of Sunnyvale.
7. Hold Harmless. Declarant, Owners, and each successor in interest of Declarant and said Owners, hereby agree to save, defend and hold the City of Sunnyvale harmless from any and all liability for inverse condemnation which may result from, or be based upon, City's approval of the Development of the subject Property."
8. Homeowners are prohibited from modifying drainage facilities and/or flow patterns without first obtaining permission from the City.
- I. There shall be provisions for post construction Best Management Practices in the CC&R's in regards to the final stormwater management plan and ongoing maintenance and reporting requirements.
- J. The Homeowners Association shall be required to maintain and keep up to date transit information and rideshare information for display in an on site kiosk. The display shall include current VTA transit map, Caltrain station map, contact info websites and phone # for Caltrain, VTA, www.511.org, etc.

5. DESIGN/EXTERIOR COLORS AND MATERIALS

- A. The plans shall be revised to be consistent with the Design Guidelines and development standards to provide the following:
 1. All final exterior building materials and color scheme are subject to review and approval of the Director of Community Development prior to issuance of a building permit. Provide material samples and final color boards for the proposed building finishes, including a rendered perspective drawings of the rear façade of the north building as viewed from Fair Oaks Avenue.
 2. Upon submittal of the rear facade perspective staff will be reviewing the design for appropriate level of relief and interest and whether the mass of the building is too imposing for this façade. The pattern and design of garage door materials is also subject to review.

3. Continue to refine the appearance of the front overhang entries to create a more cohesive and defined entry to the building.
 4. The side façade of the buildings shall include a vertical element of relief corresponding to the three windows with the gable overhead location. The element needs to be pronounced and change the plane of the façade to create interest. The side facade is currently not coordinated among the various drawing types of the color elevation, floor plan, and b&w elevation, therefore it is subject to complete staff review and approval prior to issuance of building permits.
 5. The shingle siding shall be installed to have an offset pattern.
 6. The brick veneer shall have a minimum depth to panels to have visible textures to maintain the integrity of the traditional building materials.
 7. During the review of colors and final front façade entry treatments the use of brick veneer may be reduced in favor of the shingle siding treatments for the base of the popouts.
 8. The trim and shutter elements shall be of a wood finish.
 9. The color palette for the buildings shall include a lighter main façade color dark trim elements. The colors shall be complimentary and not so dark as to lose distinction of their hue.
 10. The site plan shall indicate the location of mailboxes and transportation information display/kiosk. Provide detail on display design.
 11. Roof material shall be 50-year warranty composition shingle with a dimensional appearance. Building plans shall indicate precise brand and style of shingle. The color of the material is to have a brown hue consistent with the exterior color scheme.
- B. Provide a security access plan and internal corridor plan. Include colors and lighting treatments for internal corridors.
- C. Provide a plan demonstrating compliance with the 300 cubic feet of storage per unit standard. The 200 square foot single car garages are credit as half of the required storage space.

6. EXTERIOR EQUIPMENT

- A. Individual air conditioning units shall be screened with architectural or landscaping features. Window air conditioning units shall not be permitted.

7. FEES

- A. Pay traffic impact fee in place at time of issuance of building permits, estimated at \$7,921.94 for 30 units. Complete payment is required at the time of issuance of the first unit's building permits.

- B. In the event that the Transportation Division's work on design parameters for "sense of place" improvements have not been completed prior to submittal of building permits, a cash in lieu fee will be accepted prior to the issuance of building permits in the amount of \$1,000 per unit. In the event the work has been completed if the installation is required adjacent to the subject site the work shall be performed by the developer as part of the development at their sole cost. In the event the work is determined to be offsite of the subject site, cash contribution equal to the cost of the work, not to exceed \$1,000 dollars per unit, shall be required prior to the issuance of buildings permits.

8. FENCES

- A. Design and location of any proposed fencing and/or walls are subject to the review and approval by the Director of Community Development.
- B. Any fences along the pedestrian and bicycle path shall be not to exceed three feet in height.
- C. The front yard fencing along the public right-of-ways shall have an open design accentuated by columns with appropriate spacing to distinguish the edge of the property but at the same time maintain a soft edge for pedestrians.
- D. Wherever there is a grade differential greater than 12 inches, a concrete or masonry retaining wall shall be installed. Such a wall shall not be designed to infringe on the root system of protected trees on adjoining properties. Post and pier perimeter boundary walls may be required to ensure the protection of existing trees on adjacent sites.

9. LANDSCAPING

- A. Landscape and irrigation plans shall be submitted to the Director of Community Development subject to approval by the Director of Community Development prior to issuance of a Building Permit.
- B. Landscaping and irrigation shall be installed prior to occupancy.
- C. Provide a modified usable open space plan demonstrating compliance with the minimum standard of 400 square feet per unit.
- D. Provide a parking lot shading plan that complies with the 50% shading in 15 years. Use of structural soil to accommodate tight placement and ensure the vitality of trees may be required during the final landscape plan review by the Director of Community Development.
- E. Include decorative paving at driveway entries for a minimum of 15 feet.
- F. Provide separate meter for domestic and irrigation water systems.
- G. All landscaping shall be installed in accordance with the approved landscape plan and shall thereafter be maintained in a neat, clean, and healthful condition.

- H. Trees shall be allowed to grow to the full genetic height and habit (trees shall not be topped). Trees shall be maintained using standard arboriculture practices.
- I. Of new trees installed, 10% shall be 24-inch box size or larger and no tree shall be less than 15-gallon size. This requirement is in addition to tree planting requirements for the removal of protected trees.
- J. Any “protected trees”, (as defined in SMC 19.94) approved for removal, shall be replaced with a specimen tree of at least 36-inch box size. The specimen trees are to be of a large species.
- K. Ground cover shall be planted so as to ensure full coverage eighteen months after installation.
- L. Landscaping and decorative walls shall be included around parking areas in an attempt to obscure their appearance from public streets.
- M. All areas not required for parking, driveways or structures shall be landscaped.

10. TREE PRESERVATION

- A. Prior to issuance of a Demolition Permit, a Grading Permit or a Building Permit, whichever occurs first, include the approved tree protection plan in the plan set.
- B. Trees on adjacent property that extend over the property line are to be included on the tree protection plan. Perimeter wall construction shall take protection of off site tree roots into design consideration.
- C. The tree protection plan shall be installed prior to issuance of any Building Permits, subject to the on-site inspection and approval by the City Arborist.
- D. The tree protection plan shall remain in place for the duration of construction.
- E. Overlay Civil plans including utility lines to ensure that the tree root system is not damaged.

11. LIGHTING

- A. Prior to issuance of a Building Permit submit an exterior lighting plan, including fixture and pole designs, for approval by the Director of Community Development. Driveway and parking area lights shall include the following:
 - 1. High pressure Sodium vapor or other illumination with an equivalent energy efficiency shall be included in the common areas.
 - 2. Pole heights to be uniform and compatible the first floor heights of the buildings. Light standards shall be of a pedestrian scale and are not to Bollards may be utilized throughout the site for lighting.

3. Provide photocells for on/off control of all security and area lights.
 4. All exterior security lights shall be equipped with vandal resistant covers.
 5. Lights shall have shields to prevent glare onto adjacent residential properties and to the internal townhomes
- B. Prior to issuance of a Building Permit submit a contour photometric plan for approval by the Director of Community Development. The plan shall meet the specifications noted in the Standard Development Requirements.

12. PARKING

- A. Modify compact parking spaces to have a minimum stall depth of 15 feet.
- B. 25% of all unassigned parking spaces shall be designated “guest” parking and shall be spread throughout the site. All guest-parking spaces shall be reserved and designated for the exclusive use of guests and shall be marked. No vehicle owned or operated by a resident shall be parked in a guest space.
- C. No uncovered parking space shall be offered for rent by the property owners or homeowners association.
- D. Garage spaces shall be maintained at all times so as to allow parking of an automobile.
- E. Specify compact parking spaces on the Building Permit plans. All such areas shall be clearly marked prior to occupancy, as approved by the Director of Community Development.
- F. Unenclosed storage of any vehicle intended for recreation purposes, including land conveyances, vessels and aircraft, but excluding attached camper bodies and motor homes not exceeding 18 feet in length, shall be prohibited on the premises.

13. BICYCLE PARKING

- A. Provide a minimum of 3 guest parking spaces of Class II per VTA Bicycle Technical Guidelines as approved by the Director of Community Development.

14. RECYCLING AND SOLID WASTE

- A. Submit a detailed recycling and solid waste disposal plan to the Director of Community Development for approval.
- B. All exterior recycling and solid waste shall be confined to approved receptacles and enclosures.
- C. The required solid waste and recycling enclosure shall match the design, materials and color of the main building and is subject to review and approval by the Director of Community Development.

- D. The enclosure shall be of masonry construction complimentary to the main building architecture. The design shall include decorative tops to shield view from upper floors of nearby housing units.

15. UNDERGROUND UTILITIES

- A. All existing and proposed utilities shall be undergrounded.

16. TENTATIVE MAP CONDITIONS

- A. Dedicate land along Fair Oaks Avenue to provide for sidewalks in compliance with the Tasman and Fair Oaks Area Pedestrian and Bicycle Circulation Plan.
- B. Dedicate a minimum of 2 feet along the north boundary for completion of the pedestrian path.
- C. Full development fees shall be paid for each project parcel or lot shown on Final Tract Map and the fees shall be calculated in accordance with City Resolutions current at the time of payment.
- D. Comply with all applicable code requirements as noted in the Standard Development Requirements.
- E. All existing utility lines and /or their appurtenances not serving the project and/or have conflicts with the project, shall be capped, abandoned, removed, relocated and/or disposed to the satisfaction of the City.
- F. Individual utility service metering shall be provided to each unit.
- G. Obtain necessary permits from the Department of Public Works for all off-site improvements including utility line extensions, utility connections, meter locations, driveways, sidewalks, etc.
- H. Pay Park In-lieu fees of \$220522.50 (\$7,350.75/unit) for 30 units, prior to approval of the Final Map. Payment for each phase's final map is permitted.(SMC 18.10)
- I. Dedicate private streets as emergency vehicle ingress-egress easements.
- J. A Private street name will be provided per the City of Sunnyvale Street Name System, as selected by the Community Development Department.
- K. At the expense of the subdivider, City staff shall install required street trees of a species determined by the Public Works Department. Obtain approval of a detailed landscape and irrigation plan from the Director of Community Development (SMC 19.38.070) prior to issuance of a Building Permit.
- L. Coordinate bus stop improvements with VTA standards. Include on improvement plans for building permits.

- M. Construct new sidewalk, curb, and gutter in accordance with requirements of the Transportation and Traffic Division to match the Fair Oaks improvements to the north of the site.
 - a. Street frontage improvements require 10-foot sidewalk along Fair Oaks Avenue.
 - c. Luminaries and street tree grates are to be installed per design standards of the Fair Oaks and Tasman Pedestrian and Bicycle Circulation Plan.
 - d. Luminaries shall include an internal louver around the bulb or equivalent feature to direct lighting downwards. This detail shall be indicated on improvement plans.
- N. Install "sense of place" improvements at the sole expense of the developer in accordance with standards and specification of the Transportation Division follow up design work to the Fair Oaks and Tasman Area Pedestrian and Bicycle Circulation Plan.



Front

Left

Conceptual Streetscene Elevation
(Along Fair Oaks Avenue)

Classics at Junction Oaks
City of Sunnyvale, California



233.05234
SCALE: 1/8" = 1'-0"

ROSENMAN
LACON
ARCHITECTURE AND LAND PLANNING
2001 Ontario St., Suite 100
Sunnyvale, CA 94086-3923
Telephone: 408.262.1800
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